

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
MARITIME COMMUNICATIONS/LAND MOBILE, LLC, DEBTOR-IN-POSSESSION	)	WT Docket No. 13-85
Application to Assign Licenses to Choctaw Holdings, LLC	)	FCC File No. 0005552500
)	
MARITIME COMMUNICATIONS/LAND MOBILE, LLC)	
Applications to Modify and to Partially Assign License for Station WQGF318 to Southern California Regional Rail Authority	)	FCC File Nos. 0004153701 and 0004144435
)	
Application for New Automated Maritime Telecommunications System Stations	)	FCC File No. 0002303355
)	
Order to Show Cause, Hearing Designation Order, and Notice of Opportunity for Hearing	)	EB Docket No. 11-71
	)	File No. EB-09-IH-1751
	)	FCC File Nos. 0004030479, 0004144435,
	)	0004193028, 0004193328, 0004354053,
	)	0004309872, 0004310060, 0004314903,
	)	0004315013, 0004430505, 0004417199,
	)	0004419431, 0004422320, 0004422329,
	)	0004507921, 0004153701, 0004526264,
	)	0004636537 & 0004604962

To: The Commission

**COMMENTS OF
PUGET SOUND ENERGY, INC.**

Pursuant to Sections 1.45 of the Rules of the Federal Communications Commission (“FCC” or “Commission”), Puget Sound Energy, Inc. (“PSE”) respectfully submits these comments on the “Motion to Strike and/or Dismiss as Defective Petitions for Reconsideration of FCC 16-172; Request for Imposition of Sanctions; and Petition for Expedited Investigation,” filed by Maritime

Communications/Land Mobile, LLC, Debtor-in-Possession (“MCLM”), on February 2, 2017. MCLM’s motion was filed in opposition to two petitions filed by Warren C. Havens (“Havens”) and Polaris PNT PBC (“Polaris”) on January 18, 2017, seeking reconsideration of the Commission’s *Order on Reconsideration and Memorandum Opinion and Order*, FCC 16-172, released December 15, 2016. PSE agrees with MCLM that the Havens and Polaris petitions are untimely and should be promptly dismissed as defective. However, PSE respectfully requests that, in considering whether sanctions should be imposed against Havens, the Commission take care not to further delay or prevent PSE from completing the assignment of Automated Maritime Telecommunications Service (“AMTS”) spectrum from two entities formerly controlled by Havens.

I. Introduction and Background

PSE is a public utility serving approximately 1 million electric customers and nearly 750,000 natural gas customers in a 6,000 square mile service territory in the Puget Sound area of western Washington state. In May 2010, PSE entered a Spectrum Purchase Agreement (“SPA”) with Environmental LLC (“Environmental”) and Skybridge Spectrum Foundation (“Skybridge”), both of which were controlled at that time by Warren Havens, for the partitioning and assignment to PSE of geographic licenses for the AMTS “A-Block” spectrum in PSE’s utility service territory.

Environmental and Skybridge also granted an option, which could be exercised five years after the effective date of the SPA, to take assignment of additional AMTS spectrum at no additional cost.

The FCC granted consent to the initial license assignments in October 2010, and the parties consummated those assignments in November 2010.¹ PSE exercised the option for the remaining spectrum in May 2015, as permitted under the SPA.

¹ FCC Application File Nos. 0004258631 and 0004258642.

On October 30, 2015, PSE filed a Complaint in the U.S. District Court for the Western District of Washington against Environmental, Skybridge, and a related entity, Atlis Wireless, for breach of contract.² The Complaint alleged that the defendants unlawfully refused to assign to PSE the additional AMTS spectrum rights upon PSE's exercise of the option. In conjunction with settlement of this litigation, Environmental and Skybridge, acting through a court-appointed Receiver, agreed to assign the spectrum rights to PSE. Consistent with the terms of the SPA, assignment of these spectrum rights to PSE is at no additional cost to PSE. The parties filed applications on November 22, 2016, for assignment of these spectrum rights to PSE.³ Upon grant of these applications, PSE will finally have the full complement of AMTS spectrum from Environmental and Skybridge for which it contracted nearly seven years ago. PSE needs this spectrum for the operation of its private land mobile radio network which, in turn, supports PSE's safe and efficient delivery of electricity and natural gas to its customers.

II. MCLM's Request for Sanctions Against Havens

PSE agrees with MCLM that the Havens and Polaris petitions for reconsideration of FCC 16-172 were late-filed and should be promptly dismissed. MCLM also requested that the FCC impose sanctions on Havens for these and other abuses of the FCC's processes. Specifically, MCLM recommended that Havens be barred from filing pleadings in any FCC proceedings without first requesting and obtaining leave to do so, and that the FCC should consider imposition of monetary forfeitures against Havens. Finally, MCLM recommended that the FCC initiate enforcement proceedings against Havens as to his basic qualifications to hold FCC authorizations.⁴

² *Puget Sound Energy, Inc. v. Atlis Wireless LLC, et al.*, No. 2:15-cv-01393-RSM.

³ FCC Application File Nos. 0007550647 and 0007550648.

⁴ Motion to Strike, at 3 and 13. MCLM suggested in another context that proceeds from spectrum sales should not benefit either Warren Havens or his business partner, Arnold Leong. (See, *e.g.*, MCLM's "Petition to Deny," filed February 2, 2017, in FCC Application File No. 0007605768).

PSE takes no position at this time on whether sanctions should be imposed against Havens, or the nature of any such sanctions. However, PSE respectfully requests that the FCC take no action that would further delay PSE from taking assignment of the spectrum rights for which it contracted in 2010 and which it has diligently sought to obtain over the last two years. PSE, and other critical infrastructure providers, have been blocked from obtaining much needed spectrum resources due to incessant litigation that has no clear purpose other than to cause delay, increase costs to all parties, and prevent the productive use of spectrum resources. Initiation of an enforcement hearing, without the adoption of special exceptions for pending transactions, would only exacerbate these problems for PSE and similarly-situated applicants.

Should the FCC agree with MCLM that sanctions against Havens are warranted, PSE requests that any such sanctions not further harm or delay PSE, which has already suffered harm through delayed access to this spectrum that had to be enforced through litigation, and at significant expense to PSE. The Commission has broad discretion to fashion appropriate remedies under the policy of *Jefferson Radio Corp. v. FCC*, 340 F.2d 781, 783 (D.C. Cir. 1964), including the approval of license assignments where there are significant equitable considerations and where no profit would be realized by the assignor.⁵ In the present situation, there are significant equitable considerations that warrant special handling under *Jefferson Radio*; *i.e.*, PSE needs the spectrum to support critical infrastructure operations, the assignment was delayed nearly two years through no fault of the assignee, and there will be no profit to the assignor.

WHEREFORE, THE PREMISES CONSIDERED, PSE respectfully requests that the Commission promptly grant MCLM's Motion to Dismiss the untimely petitions for reconsideration

However, assignment of this spectrum to PSE will result in no additional proceeds to any other person.

⁵ *Little Dixie Radio, Inc.*, 25 FCC Rcd 4375, 4378-79 (2010).

filed by Havens and Polaris, but that the Commission take action with respect to sanctions or enforcement only after ensuring that PSE and other innocent third parties may complete spectrum transactions without further delay.

Respectfully submitted,

PUGET SOUND ENERGY, INC.

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Dated: February 13, 2017

CERTIFICATE OF SERVICE

I, Michaelleen Terrana, hereby certify that on this 13th day of February 2017, I caused a copy of the foregoing "Comments of Puget Sound Energy, Inc." to be served on the parties listed below via First Class U.S. Mail, postage prepaid:

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A handwritten signature in black ink, appearing to read "M. Terrana", written in a cursive style.

Michaelleen Terrana